

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Addition of Every Door Direct Mail —     )  
Retail to the Product List                     )

Docket No. MC2012-31

**VALPAK DIRECT MARKETING SERVICES, INC. AND  
VALPAK DEALERS ASSOCIATION, INC.  
INITIAL COMMENTS ON REQUEST OF THE UNITED STATES  
POSTAL SERVICE TO ADD EVERY DOOR DIRECT MAIL — RETAIL  
TO THE MAIL CLASSIFICATION SCHEDULE  
(July 30, 2012)**

On July 10, 2012, the Postal Service filed a request (hereinafter “Request”) to add Every Door Direct Mail — Retail (“EDDM-R”) as a permanent product to the Market Dominant product list. On July 11, 2012, the Commission issued Order No. 1399, commencing the docket and setting July 30, 2012 as the deadline for comments, and August 6, 2012 as the deadline for reply comments.

**BACKGROUND**

A similar product which is currently being tested as an experimental product in Docket No. MT2011-3, originally named Marketing Mail Made Easy (“MMME”), was proposed by the Postal Service on January 12, 2011. In the Market Test docket, the Public Representative filed a motion for Issuance of an Information Request which the Postal Service opposed. Valpak filed a motion for issuance of an Information Request<sup>1</sup> (Feb. 4, 2011) which the Postal

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<sup>1</sup> <http://www.prc.gov/Docs/71/71841/VP%20MMME%20Motion%20for%20CIR.pdf>.

Service Opposed<sup>2</sup> (Feb. 11, 2011).<sup>3</sup> Several of Valpak's questions were aimed at understanding the degree to which the Postal Service was targeting businesses that do not use the Postal Service at all, as opposed to those businesses who use the mail indirectly through a mail service provider, shared mail service, or a newspaper's total market coverage. The Commission never ruled on the PR's motion or Valpak's motion until its Order approving the Market Test, when it denied "all outstanding requests" filed in the Docket. However, the Commission did order the Postal Service to report certain data on the market test quarterly.<sup>4</sup> Valpak submitted Initial Comments<sup>5</sup> (Feb. 4, 2011) and Reply Comments<sup>6</sup> (Feb. 15, 2011) opposing the experimental product. Valpak was not alone, as comments concerned about the Market Test were also filed by many others, with a total of 16 sets of comments.<sup>7</sup>

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<sup>2</sup> <http://www.prc.gov/Docs/71/71920/USPS.Resp.Val.Mtn.pdf>.

<sup>3</sup> Similarly in this docket, the Postal Service has opposed vigorously a Motion to obtain basic information about its proposal filed by David Popkin.

<sup>4</sup> The Postal Service filed six data collection reports for FY2011, Q3 through FY 2012 Q4.

<sup>5</sup> <http://www.prc.gov/Docs/71/71844/Valpak%20MT2011-3%20Initial%20Comments.pdf>.

<sup>6</sup> <http://www.prc.gov/Docs/71/71947/Valpak%20MT2011-3%20%20Reply%20Comments.pdf>.

<sup>7</sup> The following filed comments with the Commission: (1) Experian (1/19); (2) Charles Thompson, EVP of Production World Marketing, Inc. (1/26); (3) Keith Judkins, President & CEO of National Association of Advertising Distributors, Inc.(1/26); (4) Globe Direct, LLC (1/27); (5) Wanda Senne, National Director of Postal Development of World Marketing, Inc.(1/31); (6) Mark Keefe of PrimeNet Direct Marketing Solutions (1/31); (7) Marc Brenard, Sales Manager of Publisher's Diversified Mail Services (2/1) (Brenard Comments); (8) Harry Turner (2/1); (9) Michelle Hilston, Director of Postal Affairs Consolidated Graphics Group (2/2); (10) Faris Mailing, Inc.; (11) Newspaper Association of America (NAA Opposition); (12) Pat Wiley of Compact Information Systems; (13) Calmark,

Nevertheless, the Commission unanimously<sup>8</sup> approved the experimental product pursuant to 39 U.S.C. section 3641. *See* Order No. 687.

In proposing the Market Test, the Postal Service's initial notice stated that "The annual revenues from the market test are not anticipated to exceed \$10,000,000." Docket No. MT2011-3, Postal Service Notice (Jan. 12, 2011), p. 5. Thereafter, the experimental product was more successful than previously projected, and the Postal Service requested the Commission for an exemption of the \$10 million revenue limitation. The Postal Service advised the Commission "The annual revenues from the market test are not anticipated to exceed \$50,000,000 ... in any year." Request of the United States Postal Service for Exemption from Revenue Limitation on Market Test of Experimental Product — Every Door Direct Mail (Nov. 18, 2011), p. 6. Again Valpak submitted Initial Comments<sup>9</sup> (Dec. 5, 2011) and Reply Comments<sup>10</sup> (Dec. 12, 2011) urging the Commission to reject the Postal Service's request for exemption and to order the experimental product to be discontinued, but the Commission granted the exemption. *See* Order No. 1164.

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Inc. (Calmark Comments); (14) National Newspaper Association; (15) Public Representative (PR Comments); and (16) Valpak Direct Marketing Systems, Inc. and Valpak Dealer's Association, Inc. (Valpak Comments). Comments were filed on February 4 except as noted. *See* Postal Service Reply Comments, p. 1, n.1 (Feb. 15, 2011).

<sup>8</sup> Commissioner Dan G. Blair filed a concurring opinion expressing his concerns with the Market Test, stating "I am concerned that the mailbox monopoly might confer an unfair competitive advantage on the Postal Service when competing for local print advertising."

<sup>9</sup> <http://www.prc.gov/Docs/78/78398/VP%20MT2011-3%20Comments%20on%20exemption.pdf>.

<sup>10</sup> <http://www.prc.gov/Docs/78/78659/VP%20MT2011-3%20Reply%20Comments%20on%20waiver.pdf>.

In its request in this docket, the Postal Service now states “At current usage levels, the Postal Service anticipates that EDDM-R will reach the \$50 million revenue limitation before the end of Fiscal Year 2012.” Request, pp. 1-2. *See also* 39 U.S.C. § 3641(e)(2). The Postal Service asks for permanent status for the new product. The Postal Service identifies the only differences between the experimental product in Docket No. MT2011-3 and the proposed product as follows:

(1) the maximum number of pieces was changed from 5,000 pieces **per office** per mailer per day to 5,000 pieces **per ZIP Code** per mailer per day maximum;

(2) the minimum number of pieces was changed from no less than one full carrier route to no less than one full carrier route AND no fewer than 200 pieces, unless there are fewer than 200 active deliveries in a ZIP Code, in which case the mail may be presented for the actual number of active deliveries for that ZIP Code; and

(3) the price was changed to \$0.16.<sup>11</sup>

The Postal Service Office of the Inspector General (“OIG”) conducted an audit of the EDDM-R market test. USPS OIG, Every Door Direct Mail-Retail Audit Report (“IG Report”), Report Number MS-AR-12-004 (May 7, 2012). The OIG report was never referenced by the Postal Service in its request to the Commission.

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<sup>11</sup> Response of the United States Postal Service in Opposition to Request of David B. Popkin for a Presiding Officer’s Information Request (July 24, 2012), pp. 1-2 (emphasis added).

## STATUTORY REQUIREMENTS

When the Postal Service wants to add a product to either of the product lists, it must submit a request to the Commission. 39 U.S.C. § 3642(a). The determination of whether to add a product to a list is made by the Commission, consistent with criteria set forth in section 3642(b):

(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products.

(2) **EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.**—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term “product covered by the postal monopoly” means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

(3) **ADDITIONAL CONSIDERATIONS.**—In making any decision under this section, due regard shall be given to—

- (A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;
- (B) the views of those who use the product involved on the appropriateness of the proposed action; and
- (C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

The Postal Service purports to respond to the statutory criteria in Attachment B to the Postal Service’s Request, parts (d) through (h).

## ARGUMENT

### I. The Postal Service Has Not Complied with the Commission's Requirement to Provide Data on the Carrier and Cost Impact of EDDM-R.

In approving the Market Test, the Commission clearly stated what it would require for the creation of a permanent product:

If the Postal Service proposes to offer MMME as a permanent product, **it must, in support of its filing, present data** showing the **impact of MMME on carrier operations**, e.g., showing the frequency and number of routes requiring deferral of delivery of one or more bundles of Standard Mail when **more than three bundles** are available for delivery on that route. [Order No. 687, p. 13 (emphasis added).]

The Postal Service notes the Commission's requirement in Order No. 687 (p. 3), but does not respond to it in a meaningful way in Appendix B, saying basically, that it does not have any carrier operation data, and has not prepared any.

**Current USPS systems do not afford an effective method to identify and track EDDM-R mailings impact** within the postal system. From an operations perspective, a saturation mailing is defined as a sequence set which does not delineate EDDM-R or EDDM (BMEU) mailings from non EDDM-R saturation or high-density mailings. **While there may be some impact** on preparing the mail for delivery, current costs for Saturation Mail, the proxy for EDDM-R, reflects 25-percent of saturation flats as "cased". Casing requires in-office delivery personnel to combine all forms of saturation mailings through either direct casing of mail or merging multiple bundles of saturation mail with other mail being delivered that day rather than being taken directly to the delivery route as a "third bundle".

With the introduction of new workloads, specifically EDDM-R or traditional saturation and high-density, additional sequence sets **could impact daily carrier operations by increasing the number of bundles**, on any given day of the week, for a specific carrier route. Depending on the type of carrier route, and number of sequence sets, **additional handling** of EDDM-R or other saturation mailings may result in **deferrals**,

of one or the other mailing, in an effort to manage workload and contain costs. This impact is greatest on foot and park-and-loop type routes, which comprise 32 million out of the 80 million residential deliveries. Ultimately, **the impact of EDDM-R on delivery will depend on the level of usage of the new product**, similar to other new products requiring additional handling. [Request, Appendix B, pp. 12-13 (emphasis added).]

All the Postal Service tells the Commission is that **as the EDDM-R product grows, it will have an increasingly adverse impact on carrier operations** through the introduction of many more third bundles that must be handled via highly-expensive hand casing, thereby **driving up the unit cost** of this product, demonstrating diseconomies of scale. This is not the formula for a successful product. The Postal Service has not provided any of the data the Commission said it would require for approval of a permanent product.

Additionally, the Postal Service's request acknowledges that Commission Order No.

1164 required cost data from the Postal Service, saying:

the Commission added that: “[i]nformation on **advertising or other specific costs** related to the” proposed new product will also have to be presented at that time. [Appendix B, p. 13 (emphasis added).]

Nevertheless, the Postal Service's request only addresses the advertising issue, not the other costs of providing the product, saying:

**Current USPS systems do not afford an effective method to identify and track EDDM-R mailings impact within the postal system.** From an operations perspective, a saturation mailing is defined as a sequence set which does not delineate EDDM-R or EDDM (BMEU) mailings from non EDDM-R saturation or high-density mailings. While **there may be some impact** on preparing the mail for delivery, current costs for Saturation Mail, the proxy for EDDM-R, reflects 25-percent of saturation flats as “cased”. Casing requires in-office delivery personnel to combine all forms of saturation mailings through

either direct casing of mail or merging multiple bundles of saturation mail with other mail being delivered that day rather than being taken directly to the delivery route as a “third bundle”.

The cost of **ongoing advertising** is not expected to have much of an incremental impact on the costs attributed to EDDM-R. However, there have been several advertising campaigns, including promotional materials, in FY 11 and FY 12, for the Every Door Direct Mail concept. The cost of the advertising is split according the relative volume in each channel. For FY 11, 7.5 percent of volume was EDDM-R, and for FY12YTD, 18.9 percent of volume was EDDM-R. Accordingly, the total EDDM-R advertising forecasted for FY 12 is **\$4,432,357** (using that 18.9 percent figure), and the estimate for FY 13 (assuming the FY12 percentage applies) is **\$2,268,000**. [Attachment B, p. 13.]

The Postal Service has not provided the cost estimates the Commission requested.

## **II. The Postal Service Has Not Reported to the Commission as Directed Regarding the Problem of Cannibalization of Other Mail Products.**

The Postal Service does not appear to have complied with the Commission’s

Requirement for Data Collection necessary to support a permanent product. The Commission ordered the Postal Service to file data quarterly on the following topics:

- The total number of customers that used MMME;
- **The total number of customers that used a different postal product or postal service for marketing in the 90 days prior to mailing MMME....;**
- The total volume of MMME sent, in aggregate and by delivery unit;
- The average size of the mailing; and
- The proportion of total MMME mail entered by day. [Order No. 687, p. 13 (emphasis added).]

The Commission added a footnote to explain the second bullet, *supra*:

Such data could be garnered from mailers by requiring a statement on the mailing form such as “My business has/has not used a **different direct mail product**, or the services of a **shared mail** or **mail consolidation** business, in the 90 days preceding this mailing.” The intent is to collect volume information—in the



Postal Service’s words—“including those from existing mailers.”  
[*Id.* (emphasis added).]

The most recent Postal Service data collection report dated May 3, 2012<sup>12</sup> states:

The total number of customers that used a **different postal product or postal service** for marketing in the 90 days prior to mailing EDDM-R:

- o 1,205 customers used a different postal product or postal service for marketing in the 90 days prior to using EDDM-R.  
[Emphasis added.]

The Postal Service seems to have conflated “shared mail” and “mail consolidation” under the ambiguous term “postal service.”

While a facial review of the Postal Service’s data collection report is confusing as to what is being reported, the U.S. Postal Service’s Inspector General’s Audit Report on Every Door Direct Mail-Retail (MS-AR-12-004) (May 7, 2012) reveals the Postal Service’s flawed methodology, advising that it:

**does not directly measure the number of existing customers shifting from other products to EDDM-R.** Such information would substantiate the Postal Service’s requirements for transitioning the product to permanent status, in particular the provisions of the law concerning impact on the marketplace and small business concerns. Stronger data might also provide some assurance to mail service providers that have expressed concern that EDDM-R might attract their existing customers rather than generate new customers....

The Postal Service ... periodic reports .. include[s] information about the customers using a different Postal Service product ... determine[d] this number based on **whether the mailer had a mailing permit and used the permit 90 days**

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<sup>12</sup> <http://www.prc.gov/Docs/82/82334/2012%205%203%20USPS%20Cov%20Ltr%20for%20EDDMR%20DCR.pdf>.

**before mailing its EDDM-R product.** The Postal Service used this methodology because the data are available, simple, and ... gives some sense of whether or not a customer regularly uses direct mail.... However, as this product is transitioned to a **permanent product, a more accurate measure** of the number of new customers versus the number of existing customers shifting from other products to EDDM-R **is critical for market intelligence and product evaluation.** [IG Report, pp. 2-3 (emphasis added).]

In other words, the Postal Service chose not to ask, and therefore has no idea, if users of EDDM-R are simply transitioning mail that is currently being sent, albeit not directly by the mailer, but rather through shared mail programs or through mail service providers using the MSP's permit. Based on this, the Inspector General concludes that the entire \$50 million of revenue annually potentially gained was all "revenue the Postal Service is at risk of losing..." as it could be simply the cannibalization of existing mail volume. The report defines "revenue at risk" as "Revenue the Postal Service is at risk of losing (for example, when a mailer seeks alternative solutions for services currently provided by the Postal Service). The amount at risk is based on 3 fiscal years of revenue at the cap of \$50 million per year currently imposed by 39 U.S.C. § 3641." *Id.*, p. 3 n.6. These are serious issues which now must be resolved by the Commission.

Respectfully submitted,

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